

STATEMENT OF PURPOSE

RS21745

In 2008, Idaho adopted the Uniform Power of Attorney Act. Section 15-2-108 of that Act changed long-standing Idaho law that the appointment of a conservator revoked existing financial powers of attorney, providing instead that the existing financial powers of attorney would remain unless otherwise ordered by the court. There was considerable discussion about this change at the time of adoption of the Act, but it was decided that it would best to try the new method and see if it proved beneficial. Instead, it has proven to be a major problem in many cases, especially when a temporary conservator is appointed to preserve the assets of the protected person pending permanent appointment of a conservator. In many cases, both with a temporary or permanent appointment, the existing financial power of attorney is changing assets, transferring assets, and otherwise making financial decisions in direct opposition to the appointed conservator. Often, the appointed conservator does not even know that the financial power exists until after the financial power of attorney agent has acted.

This bill solves that problem by providing that appointment of a temporary or permanent conservator terminates the power of attorney. It also allows the court, in appropriate cases, to limit or continue the power instead of terminating it. This will keep control in the court-appointed, and court monitored, conservator, while keeping flexibility.

The bill also makes it clear that the amendment only applies to appointments of conservators made on or after July 1, 2013.

FISCAL NOTE

This bill will have no fiscal impact.

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